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IN THE UNITED STATES PATENT & TRADEMARK OFFICE

IN RE APPLICATION OF :
MARIO POLEGATO MORETTI : ATTN: APPLICATION DIVISION
SERIAL NO: NEW U.S. PCT APPLN :
(Based on PCT/EP01/04050)
FILED: HEREWITH :
FOR: BREATHABLE SHOE :

PRELIMINARY AMENDMENT

ASSISTANT COMMISSIONER FOR PATENTS
WASHINGTON, D.C. 20231

SIR:

Prior to a first examination on the merits, please amend the above-identified
application as follows:

IN THE CLAIMS

Please cancel Claims 1-25 without prejudice.

Please add new Claims 26-50 as follows:

26. (New) A breathable shoe, comprising:

an assembly which wraps around a foot insertion region and comprises a breathable
upper;

at least one membrane made of a material which is waterproof and breathable and is
associated with said assembly in a downward region;

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a sole made of perforated elastomer, joined to said upper and sealed perimetrically to said membrane;

a protective element made of a material which is resistant to hydrolysis, water-repellent, breathable or perforated, arranged below said membrane in a region between an upper part of said sole and its internal part which is adjacent to a ground contact surface.

27. (New) The shoe according to claim 26, wherein said assembly that wraps around the foot insertion region is composed of an upper and a breathable or perforated insole which is sewn to edges of said upper according to a Strobel or ideal welt manufacturing method so as to form a sack.

28. (New) The shoe according to claim 26, wherein said assembly is constituted by a breathable tubular upper.

29. (New) The shoe according to claim 26, wherein said assembly is composed of:

a breathable upper,

a breathable or perforated assembly insole, under which edges of said upper are folded and glued so as to form a sack,

a breathable or perforated filler layer which is surrounded by the folded edges of said upper.

30. (New) The shoe according to claim 26, wherein said sole is made of a block of elastomer with through holes through its thickness, is joined to said upper along a perimetric band, and is sealed perimetrically to said membrane.

31. (New) The shoe according to claim 26, wherein said sole has, in its upper part, a hollow region which is delimited perimetrically by a border, protrusions protruding from said hollow region, and holes or channels being formed in said border and connecting said hollow region to the outside.

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32. (New) The shoe according to claim 31, wherein each one of said holes is inclined with respect to the ground contact surface so that an outward part is lower than an inward part.

33. (New) The shoe according to claim 32, wherein said holes have one-way valves which only allow air to flow outward.

34. (New) The shoe according to one of claim 26, wherein said sole is joined to said upper by gluing with hydrolysis-resistant adhesives or by high-frequency welding.

35. (New) The shoe according to claim 30, wherein said sole is joined to said upper by direct injection in a mold.

36. (New) The shoe according to claim 26, wherein an edge of said protective element lies inside an edge of said membrane in order to allow to form a seal with said sole.

37. (New) The shoe according to claim 26, wherein an edge of said membrane is folded around an edge of said protective element.

38. (New) The shoe according to claim 26, wherein said protective element is thinned at its edge if it has a same perimeter as the membrane, so as to allow the sealing adhesive to penetrate between said membrane and said sole.

39. (New) The shoe according to claim 26, wherein said protective element is made of a material which is water-repellent and capable of drying rapidly.

40. (New) The shoe according to claim 26, wherein said protective element is sandwiched between two components which are mutually joined hermetically and into which said sole is divided, each component having through holes.

41. (New) The shoe according to claim 26, wherein said protective element is made of Kevlar fabric or filtering fabric.

42. (New) The shoe according to claim 26, wherein said upper is associated with a breathable or perforated lining by spot gluing.

43. (New) The shoe according to claim 26, wherein said membrane is coupled to a supporting mesh made of synthetic material.

44. (New) A method for manufacturing a breathable shoe comprising the steps of:

providing an upper assembly having a breathable upper;

providing a membrane made of a material which is waterproof and breathable;

providing a sole made of perforated elastomer; and

mutually attaching said upper assembly, said membrane, and said sole such that said membrane is arranged between said upper assembly and said sole and said sole is sealed perimetrically to said membrane, in a manner to prevent moisture from entering into said upper assembly from said sole through said membrane, and to permit moisture to leave an inside of said upper assembly through said membrane and through said sole.

45. (New) The method of claim 44, further comprising:

initially attaching said membrane to said upper assembly so that said upper assembly is a unitary upper assembly including said membrane; and

subsequently attaching said unitary upper assembly to said sole.

46. (New) The method of claim 45, further comprising attaching said membrane to said upper assembly by spot gluing.

47. (New) The method of claim 46, further comprising:

providing a breathable insole and an upper;

attaching said breathable insole to said upper by means of stitches; and

attaching said membrane to said insole.

48. (New) The method of claim 46, further comprising:

providing a tubular upper, of said upper assembly, having a bottom portion extending continuously between two opposite side portions; and

attaching said membrane to said bottom portion of said tubular upper.

49. (New) The method of claim 46, further comprising:

providing a breathable assembly insole, a breathable filler layer, and an upper;

attaching folded edges of said upper below said assembly insole, and attaching said filler layer below said assembly insole; and

attaching said membrane to said filler layer.

50. (New) The method of claim 44, further comprising:

initially attaching said membrane to said sole so that said sole is a unitary sole assembly including said membrane; and

subsequently attaching said unitary sole assembly to said upper assembly.

IN THE ABSTRACT OF THE DISCLOSURE

Please add the following new Abstract on a separate page:

REMARKS

Favorable consideration of this application, as presently amended, is respectfully requested.

The present preliminary amendment is submitted to place the above-identified application in more proper format under United States practice. By the present preliminary amendment original Claims 1-25 are cancelled and new Claims 26-50 are presented for examination. New Claims 26-50 are deemed to be self-evident from the original disclosure, including original Claims 1-25, and thus are not deemed to raise any issues of new matter.

A new Abstract is also submitted herein.

The present application is believed to be in condition for a full and thorough examination on the merits. An early and favorable consideration of the present application is hereby respectfully requested.

Respectfully submitted,

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IN THE CLAIMS

Claims 1-25 are cancelled.

Claims 26-50 are added.

IN THE ABSTRACT

--Abstract (New).--